

IN THE MATTER OF THE COMPLAINT TO REMOVE
RICHLAND COUNTY COMMISSIONER DAVE PAULSON

State of North Dakota, ex rel. certain)	
Richland County residents,)	
)	
Complainant,)	01-GOV-02
)	
-vs-)	ORDER OF REMOVAL
)	
Dave Paulson,)	
)	
Respondent.)	
-----)	

BY: THE HONORABLE JOHN HOEVEN, GOVERNOR OF THE STATE OF
NORTH DAKOTA

This ORDER is entered pursuant to NDCC 44-11-07 following proceedings as outlined
below.

I. PROCEDURAL SYNOPSIS

On March 23, 2001, a complaint dated March 10, 2001 (“Complaint”) was filed in the Office of the Governor, requesting that Richland County Commissioner Dave Paulson be removed from office for misconduct and malfeasance. In summary, the Complaint alleges that Commissioner Paulson conducted himself in an offensive manner toward women, created a hostile work environment, violated the civil rights of women, authorized the destruction of county records, and improperly used the power and authority of his office to intimidate and harass female employees of the county.

In response to the filing of the Complaint, former State District Court Judge Maurice R. Hunke was appointed as a Special Commissioner to oversee the hearing process in accordance with North Dakota law. Special Commissioner Hunke conducted

public hearings on April 20 and 26, 2001 at the Richland County Courthouse, Wahpeton, ND. The Office of Attorney General, Wayne Stenehjem, through Assistant Attorney General Robert P. Bennett, prosecuted the Complaint against Commissioner Paulson. Paulson was represented by his attorneys, Jack G. Marcil and Beverley L. Adams.

On July 26, 2001, Special Commissioner Hunke's final report and all evidence received in the proceedings were filed with the Office of the Governor as required by law. Included in the Complaint were allegations that Commissioner Paulson "...conducted himself in a manner which was offensive to women, which violated the civil rights of several female county employees and created a hostile working environment [,]" as well as the allegation that Paulson "...is known to use the power and authority of his position as a Commissioner to force himself upon female employees of the county who are too intimidated to complain about or report his behavior."

Special Commissioner Hunke determined that Paulson's conduct was "a violation of acceptable standards of decency[,]" and was, in fact, "...indecent conduct..." While Hunke recommended an alternate result, he acknowledged that "[t]he ultimate decision for Governor John Hoeven is whether Commissioner Paulson's indecent conduct requires his immediate administrative removal from office..."

I. ANALYSIS

My determination in this matter is based upon the factual record established by Special Commissioner Hunke, as well as by all the evidence that has been made a part of the record.

The record clearly establishes Commissioner Paulson engaged in inappropriate touching of female Richland County employees, including one long-time employee who

endured three separate instances of inappropriate touching by Paulson, each of which occurred during work hours and on county property.

The first instance occurred in late 1998. The evidence shows that Paulson brushed his hand against the female employee's breast, causing her to be surprised and annoyed. Approximately six months later, Paulson again touched the employee in an unwelcome fashion when he placed his arm "too far" around her back and under her arm, placing "his hand on the side of her chest." This second inappropriate incident made the employee mad and caused her to feel "invaded." Paulson inappropriately touched the same employee a third time later, when he again brushed his hand against her breast, causing the employee to experience "frustration, fury, invasion, questioning...." Paulson's actions created a hostile environment where the female employee felt it necessary to try to avoid Paulson. When contact could not be avoided, the employee was reduced to protecting herself from Paulson's unwelcome, inappropriate touching by crossing her arms or holding a notebook in front of her.

Commissioner Paulson's conduct was inappropriate and indecent. The three incidents above are serious enough standing alone, but they take on added weight because a careful review of the record shows that those occurrences took place **after** Commissioner Paulson took part in a sexual harassment seminar, in February of 1998. That was the same month in which Paulson inappropriately touched yet another Richland County female employee. In that instance, Paulson placed his hand around a female employee's rib cage area and pulled her closer to him. One witness described how the woman being touched reacted with what appears to have been embarrassment. She pulled away from Paulson and walked down the hallway while he followed her. Paulson

followed the woman into an office and made a comment about her dress. Moments later, the witness went to speak with the woman who had been touched. The witness instructed the woman to stay behind her desk and make sure that her office door remains open. The witness then left the office, returning several minutes later to find that the woman was “still shaking,” with a “tremor” in her voice. She reports subsequent incidents of Paulson touching her neck, back, and shoulders.

Commissioner Paulson does not deny that the incidents happened, and stated that they may have happened because he is a “touch prone person.” However, inappropriate bodily contact is not acceptable just because he claims he is prone to touching.

III. CONCLUSION

Special Commissioner Hunke reviewed the evidence in the case and concluded that Commissioner Paulson’s conduct toward these two women employees was “a violation of acceptable standards of decency.” I share Hunke’s conclusion that Commissioner Paulson’s pattern of inappropriate touching of women employees in the workplace constitutes indecent conduct. Furthermore, my full review of the record convinces me that Paulson’s indecent conduct constitutes misconduct under NDCC 44-11. By that determination, it is my sworn duty to impose the only sanction the law provides, removal from office.

While the task before me is unpleasant, my obligation under these circumstances is clear. The citizens of North Dakota are entitled to know that the misconduct exhibited by Commissioner Paulson will not be tolerated.

I find that Commissioner Paulson's actions constitute misconduct in the plain and ordinary meaning of that term. Accordingly, I hereby order the removal of Dave Paulson as Richland County Commissioner, effective 9:00 A.M., August 17, 2001.

John Hoeven
Governor